IN THE HIGH COURT OF UTTARANCHAL AT NAINITAL

Public Interest Litigation No. 1261 (M/B) of 2004

Chandra Datt Tripathi s/o Late Shri Hari Datt Tripathi,
R/o Tripathi Bhawan, Kotabagh,
District Nainital … Petitioner

Versus

1. Union of India through Secretary,
   National Highway Transport Ministry, New Delhi.
2. Secretary, Public works Department,
   Govt. of Uttaranchal Secretariat, Dehradun.
3. Chief Engineer, Public Works Department,
   Uttaranchal, Dehradun
4. District Magistrate, Nainital … Respondents

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Sri Vipul Sharma, Advocate for the petitioner.
Smt. Anjali Bhargava, Standing Counsel, Central Government for respondent no. 1.
Sri U.P.S. Negi, Addl. Advocate General for respondents 2 to 4.

JUDGMENT
Coram: Hon'ble Rajeev Gupta, C.J.
Hon'ble J.C.S. Rawat, J.

RAJEEV GUPTA, C.J. (Oral)

Sri Vipul Sharma, Advocate for the petititoner.

Smt. Anjali Bhargava, Standing Counsel, Central Government for respondent no. 1.

Sri U.P. S. Negi, Addl. Advocate General for respondents 2 to 4.

They are heard.

2. Petitioner Chandra Datt Tripathi filed this petition styled as "Public Interest Litigation" in the year 2004 for the following reliefs:

"1. A writ, order or direction in the nature of mandamus commanding the Respondents to adopt the latest technology available in adopting safety measures on roads in hill areas of Uttaranchal particularly in construction of modern parapets steel rallying or as the case might be.

2. A writ, order or direction in the nature of mandamus commanding the Respondents to repair all existing hill roads and adopt safety measures on the hill roads, which are in the tune with modern technology and science.

3. A writ, order or direction in the nature of mandamus commanding the Respondents to construct modern parapets/ mild steel rallying on Nainital-Kathgodam road and / or adopt modern technological / methodology in adopting safety measures including construction of parapets/mild steel rallying in order to prevent road accidents on this particular road.

4. Any other writ, order or direction, which this Hon'ble Court may deem fit and proper under the facts and circumstances of the case.

5. Award cost of the petition to the petitioners."

3. The respondents 2 to 4 have filed their counter affidavit. Paras 3, 6, 9, 10 and 15 of the counter affidavit read as follows:

"3. That before giving parawise reply to the petition, it is necessary to bring some relevant facts before this Hon'ble Court, which are as under:

A. That the petition is vague and allegations made in the petition are of general nature and, as such, it is not maintainable.

B. That so far the National Highway No. 87, i.e. Nainital-Kathgodam Road is concerned, every precaution is being taken by the Government to prevent the accident. The said road is a National Highway, which vest in the Central Government and the maintenance is being done by the State P.W.D. for which the fund is made available by the Central Government. The aforesaid road is in the very good condition and there is hardly any chance of accident due to the condition of the road. It is important to mention that the R.C.C. parapets have been constructed on the road side. Besides this cat eyes, road edge line and central lines have also been laid down on the road and signals have also been installed and to improve the drainage system, kerb and channel drains are being constructed and the retaining walls and breast walls have also been constructed on the road side as per technical requirement. It is also important to mention here that 70%work has been done on the road side and remaining 30% is being carried and would be completed within this financial year.

C. That every efforts are being made by the State Government to take every precaution on the roads within its control to avoid accident and necessary repairs and improvement are made as and when required.

6. That in reply to the contents of para 2 of the petition, it is submitted that it is correct to say that the accidents do occur in hill roads, but this cannot be denied that accidents do occur in large number in plain area also. There may be many reasons for road accidents. For improving the road condition department is regularly making efforts within budgetary constraints. Previously this road was 9 Km. painted and 21 Km. Kutcha. A fresh sanction for improvement/black topping of this 21 Km. length has been received during the year 2004-2005. Against this sanction 19 Km. length has already been black topped. Work is in progress in the remaining kilometers. These kilometers are targeted to be completed by June, 2007.

9. That the contents of Para 5 of the petition are vague and are not admitted. It is submitted that the department is continuously putting efforts for proper maintenance of roads. The steps being taken are as follows:-

(i) Budget provisions for maintenance of roads have been increased.
(ii) P.W.D. is in continuous touch with transport department in seeking for suggestions for improvement of road condition.
(iii) Reinforced cement plum concrete parapets have been constructed in place of traditional mud mortar parapets on Kathgodam-Nainital road. They have been firmly embedded into the ground to provide extra strength and stability. Instructions have been issued to build such type of parapets on other major roads also.
(iv) Caution boards have been fixed.
(v) Centre line and edge line have been marked, cat eyes have also been fixed.

10. That in reply to the contents of para 6 of the petition, it is submitted that as already mentioned above, provisions of cement plum concrete parapets are being made in the estimates in place of traditional mud mortar parapets subject to the availability of funds. At some critical points steel crash barriers have also been fixed. Border Road Organization is also fixing steel crash barriers in 6000 meters length of National Highways after obtaining permission from Ministry of Road Transport and Highways.

15. That in reply to the contents of para 11 of the petition it is submitted that the deponent has no knowledge about the road accident said to have been taken place in the month of April, 2004 between Nainital and Kathgodam. It is further submitted that the

said accident did not occur due to bad condition of the road and lack of safety measure. It is further submitted that the department is continuously putting its best efforts to minimize the possibility of road accidents. It is submitted that the Munsyari road mentioned in Annexure No. 4 to the petition is being improved. The total length of this road is 70 Km. Works is already in progress in 35 Kms, out of which 32 Kms. are complete and the remaining 3 Kms. shall also be completed during this financial year. The department is trying to get the improvement of remaining 35 Kms. also."

4. Considering the steps already taken by Respondents 2 to 4 and proposed to be taken, we are of the opinion that no further directions in the writ petition filed as "Public Interest Litigation", now, are necessary

5. The writ petition, therefore, is closed leaving it open to the petitioner to file another writ petition, if the future developments so warrant.

(J.C.S.Rawat, J.) **(Rajeev Gupta, C.J.)**
29.08.2006 **29.08.2006**

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